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Filed via ECFS

EX PARTE

September 26, 2007

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92

Dear Ms. Dortch:

On August 7, 2007, Verizon filed an *ex parte* with the Federal Communications Commission (“Commission” or “FCC”) discussing Verizon’s position on “phantom traffic” and reiterating its concerns with the Missoula Phantom Traffic Proposal as well as the “Compromise Proposal” advocated by several parties in a June 27, 2007 *ex parte* filed in this docket.¹ Qwest respectfully submits this letter in general support of Verizon’s position with some clarification.²

First, Qwest would like to echo three important points that were also emphasized by Verizon. As Qwest has also repeatedly demonstrated in its prior filings on phantom traffic, the Commission can take great strides against the problem of phantom traffic by simply clarifying that all carriers exchanging local traffic are responsible for their own traffic and therefore have the ability and the obligation to enter into agreements³ to cover such exchange of traffic. These

¹ Letter (and attachment) from Donna Epps, Verizon to Marlene H. Dortch, FCC, filed herein Aug. 7, 2007; Letter (and attachment) from Karen Brinkmann, Latham & Watkins, Counsel for CenturyTel, Inc. to Marlene H. Dortch, FCC, filed herein June 27, 2007.

² Qwest does not attempt to restate its detailed positions on phantom traffic here, but instead continues to rely on its prior filings in this docket. *See* Qwest *ex partes*, CC Docket No. 01-92, filed Apr. 17, 2007, May 21, 2007, Feb. 3, 2006 and Feb. 6, 2006; *see also* Comments of Qwest Communications International Inc. with respect to the Missoula Phantom Traffic Proposal, CC Docket No. 01-92, filed Oct. 25, 2006.

³ Qwest does not support requests that the *T-Mobile Order* be extended to all such agreements. *In the Matter of Developing a Unified Intercarrier Compensation Regime; T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs*, CC

agreements could, among other things, address specific billing alternatives for traffic that would otherwise be seen as phantom traffic. Qwest also joins Verizon in opposing proposals that would impose a mandatory obligation on transit providers to provide call detail records and in stressing that, in the event such records are provided, transit providers must be compensated for any call records that they do provide and must be compensated fairly for that function using a market-based rate. Finally, Qwest shares Verizon's concern with intentional misconduct to disguise call jurisdiction and is particularly concerned with carriers utilizing Virtual NXXs to misrepresent interexchange traffic as local. This activity undermines the switched access pricing regime and the FCC should aggressively move to put a stop to this sort of gaming of the system.

Second, Qwest hereby submits three important clarifications on issues addressed in the Verizon *ex parte*. On page 19 of the attachment to Verizon's *ex parte*, it states that "[t]he financially responsible party is identified at the tandem by the incoming trunk group." Qwest clarifies that, although the financially responsible party may be identified at the tandem by the incoming trunk group in some circumstances (*e.g.*, local exchange carrier ("LEC")-tariffed interexchange carrier connections), this is not necessarily true in all circumstances. An example of the latter is when there are connections between multiple transit providers that are not obtained pursuant to an access tariff. Notably, however, carrier agreements may be used in these circumstances to determine the financial liability for traffic that is exchanged between the parties.

Also, on page 22 of the attachment, Verizon states that "transit providers that identify the carrier to be billed should not be held financially responsible for any inaccurate or invalid information received from other carriers." This sentence could be read to suggest that transit providers should only be free from financial responsibility for terminating compensation if and only if they affirmatively identify the carrier to be billed in some way. Qwest clarifies that transit carriers should not be financially responsible when other carriers send traffic to the transit provider for termination with inaccurate or invalid signaling information (and when they pass on the signaling information they receive) without need to satisfy such an affirmative "identification" obligation. With respect to call records, transit providers should not have a mandatory call record obligation but call records should be subject to commercial contract negotiation – both as to the services provided and the rates paid. Among other reasons, this is because the capabilities of carrier networks vary across the industry.⁴

Docket No. 01-92, Declaratory Ruling and Report and Order, 20 FCC Rcd 4855 (2005), *appeals pending sub nom. Ronan Telephone Co., et al. v. FCC*, Nos. 05-71995, *et al.*, appeals stayed until Mar. 17, 2008 (9th Cir., Order, Sept. 11, 2007). Qwest asks, instead, that the Commission clarify that the Act already facilitates the accomplishment of such agreements, but also clarify that only some of those agreements fall under Section 252. Others fall under Sections 201 and 202 of the Act.

⁴ Verizon acknowledges this, among other places, on page 18 of the attachment to its *ex parte* where it states that "Missoula would require a tandem transit provider to create call-detail records in many cases where they are not created today and where they are unnecessary."

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Finally, Qwest agrees that jurisdictionalization of traffic from carriers with non-geographic Calling Party Number/Charge Number (CPN/CN) can be addressed by carrier agreements and the use of factors. For example, these agreements may specify what types of traffic would fall into a "nongeographical jurisdiction" and would thus be subject to factors. However, Qwest clarifies that this issue may also be addressed through mechanized billing. Carriers that have developed a mechanized billing capability that can be used to appropriately determine jurisdiction should not be limited to the use of factors.

As described above, Qwest generally agrees with Verizon's position on "phantom traffic" as stated in its August 7 *ex parte* and encourages the Commission to use this information along with the clarifications provided by Qwest to provide clear guidance and much needed certainty for the industry on transit issues.

This *ex parte* is being filed electronically pursuant to 47 C.F.R. §§ 1.49(f) and 1.1206(b). Please contact me at 202-429-3120 if you have any questions.

Sincerely,

/s/ Melissa E. Newman

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